

## HOPE VI HOMEOWNERSHIP

In furtherance of HOPE VI's goal of creating mixed-income communities, HUD encourages HOPE VI Revitalization Grantees to include homeownership units in their Revitalization Plans. An eligible homeownership replacement unit is a housing unit that replaces a unit demolished or disposed of in connection with a HUD-approved HOPE VI Revitalization Plan.

Eligible homeownership guidelines and activities vary according to the year that a HOPE VI Revitalization grant was awarded.

A. HOPE VI Revitalization Grants Awarded Between FY 1993 and FY 1999:

1. replacement homeownership units that are made available through housing opportunity programs for construction or substantial rehabilitation of homes meeting essentially the same eligibility requirements as those established under the **Nehemiah** Homeownership Program (12 USC 1725l) (see description below);
2. development of replacement homeownership units that meet the requirements of Section 5(h) (until Section 32 of the U.S. Housing Act of 1937 is implemented) and the regulatory requirements of 24 CFR part 906 (see description below);
3. development of replacement homeownership units that meet the statutory requirements of the **HOPE I** Program (HOPE for Public and Indian Housing Homeownership) (42 U.S.C. 1437aaa *et. seq.*);
4. development of replacement homeownership units that meet the statutory requirements of the **HOPE II** Program (HOPE for Homeownership of Multifamily Units) (42 U.S.C. 12871-80; Pub. L. 101-625, secs. 421-31; 104 Stat. 4079, 4162-72);
5. development of replacement homeownership units that meet the statutory requirements of the **HOPE III** Program (HOPE for Homeownership of Single Family Homes) (42 U.S.C. 12891-98; Pub.L. 101-625, secs. 441-48; 104 Stat. 4079, 4172-80);
6. other appropriate replacement homeownership activities, including **downpayment** assistance for displaced residents and the provision of **closing costs**.

B. HOPE VI Revitalization Grants Awarded in FY 2000-2001:

1. Section 24(d)(1)(J) of the U.S. Housing Act of 1937 provided a new definition of eligible homeownership activities for HOPE VI. The FY 2000 and 2001 Notices of Funding Availability implemented the new provision, which provided for appropriate replacement homeownership assistance for displaced public housing residents or other low-income families. Subject to the 80 percent of Area Median Income (AMI) low-income family limitations under the 1937 Act, assistance may include:
  - a. Downpayment or closing cost assistance;
  - b. Provision of second mortgages; and/or
  - c. Construction or permanent financing for new construction, acquisition, or rehabilitation costs related to homeownership replacement units.
2. "Section 24 Homeownership Program" means a homeownership program that satisfies each of the following requirements:
  - (a) requires that the family's income on the date of purchase of a home under this Program shall not exceed 80 percent of area median income;
  - (b) requires the homebuyer to use his or her own funds to make a minimum downpayment on the home that is the greater of:
    - (i) 1 percent of the purchase price of the home; or
    - (ii) \$500;
  - (c) requires that the conveyancing or financing documents include an anti-speculation provision, in form and substance as approved by HUD; and
  - (d) prohibits the family from leasing the home.
3. Section 32 of the U.S. Housing Act of 1937 provided further, specific authorization of homeownership activities. These provisions, once implemented, will be incorporated into 24 CFR part 906.

## Homeownership Proposal

A HOPE VI Grantee that wishes to include homeownership in its Revitalization Plan must prepare and submit either a Section 5(h)/32 proposal in accordance with 24 CFR part 906 (the development of such units must comply with 24 CFR 941) or a Homeownership Proposal as described below for other homeownership programs under HOPE VI. A homeownership replacement unit sold under the Section 5(h) Homeownership Program must be developed initially as public housing and, accordingly, must be made subject to the terms and conditions of a Mixed Finance ACC Amendment.

The Homeownership Proposal specifies the plans the Grantee will undertake for the mixed finance development of the homeownership replacement units in conjunction with a Partner. Each Homeownership Proposal must include some or all of the following documentation:

1. an identification of the **participating parties and the activities** to be undertaken by each of the participating parties and the Grantee and the legal and business relationships between the Grantee and each of the participating parties;
2. a detailed description of all **financing** (including construction and permanent budgets) necessary for the implementation of the proposal, specifying the sources (with respect to each of the proposed categorical uses of all such financing) to be summarized for the entire Proposal in the Budget attached to the HOPE VI Addendum as Exhibit F;
3. a **description of the homeownership units** to be developed, including the number and type (with bedroom count and distribution) of units, and the types and amounts of non-dwelling space to be provided;
4. an identification and description of the **proposed site**, site plan, and neighborhood;
5. a **market study** for the proposed project;
6. a preliminary development construction **cost estimate** based on the schematic drawings and outline specifications and current construction costs prevailing in the area;
7. the **development schedule**, including the architect's or contractor's estimate of the time required to complete each major development stage;
8. information concerning any necessary **relocation** of site occupants, including identification of each resident to be relocated, the distribution plan for notices, and the anticipated cost and source of funding for relocation benefits;
9. evidence of compliance of the homeownership replacement units with the applicable **homeownership program requirements**; and
10. any **additional information** requested by HUD to more fully describe any aspect of the Homeownership Proposal, including, schematic drawings and designs of the proposed building and unit plans, and outline specifications.

## Nehemiah Homeownership Program

The 1993 HOPE VI Appropriations Act provided that HOPE VI funds could be used for housing opportunity programs of construction or substantial rehabilitation of homes meeting essentially the same eligibility requirements as those established under sections 603-607 of the Nehemiah Homeownership Program. The eligibility requirements are found in section 605. HOPE VI funds may be used to:

1. write down the cost of construction to the sales price (i.e., the appraised, market value) of the home;
2. provide second mortgages to homebuyers to make the home affordable (homebuyers must maximize their first mortgage);
3. provide downpayment assistance; and
4. provide cost assistance.

The HOPE VI program requires that a homeownership program based on the Nehemiah Program must have essentially the same eligibility requirements as those found in section 605 of the Nehemiah statute. The requirements of a HOPE VI homeownership program based on the Nehemiah Program are as follows:

1. Homes must be newly constructed or involve substantial rehabilitation.
2. The homebuyer may not have owned a home during the 18 month period preceding the purchase of a home.
3. The family's income on the date of purchase of a home may not exceed the greater of:
  - a. the median income for a family of four persons in the MSA involved (except that if, and to the extent that the unit of general local government demonstrates to HUD that such action is necessary to achieve or maintain neighborhood stability, no more than 15 percent of the families in a project at any time during development or occupancy may have incomes up to 115 percent of such median income); or
  - b. the national median income for a family of four persons.
4. The homebuyer must make a downpayment on the home of at least 5 percent of the sales price of the home, unless the first mortgage on the home is originated or held by a State or unit of general local government under a home loan program of the State or unit of general local government, and the program provides for a lower downpayment. At least 1 percent of the required 5 percent must come from the homebuyer.
5. The conveyancing or financing documents must include an anti-speculation provision, as approved by HUD, when the development cost is greater than the purchase price (i.e. the appraised market value).
6. The homeowner is prohibited from leasing the home.

## Section 32 Homeownership Program

### Program Status

QHWRA added a new Section 32 to the US Housing Act of 1937 (the Act). This new homeownership program replaces the homeownership program that was authorized under Section 5(h) of the Act. HUD continues to implement the 5(h) program – which authorizes public housing agencies to sell existing public housing units to public housing residents and other low-income families – until the Section 32 rule becomes effective. The Section 32 program permits public housing authorities to:

1. sell public housing units and other housing units to low-income families;
2. provide financing assistance using Capital Funds to public housing residents; and
3. acquire housing units (non-public housing units) to be sold to low-income families under a Section 32 homeownership program.

The Section 32 homeownership program does *not* authorize the construction of homeownership units or the acquisition with rehabilitation of homeownership units. The proposed rule for the Section 32 program was issued on September 14, 1999.

### Eligible Purchasers

Households must meet the following criteria to be eligible for the program:

1. Must be a low-income family, except for families that are exercising their right of first refusal to purchase the public housing unit in which they reside.
2. Must reside in the unit as its principal residence.
3. Must be financially capable of assuming the obligations of homeownership. The amount for PITI plus utilities, maintenance and other regularly recurring homeownership costs can not exceed the sum of:
  - a. 35 percent of the family's adjusted income; and
  - b. any subsidy that will be available for such payments (e.g., Section 8(y)).
4. Must provide a down payment, from their own funds, that is not less than 1 percent of the purchase price of the home.
5. Must meet other requirements that may be established by the PHA (e.g., employment, criminal activity, participation in homeownership counseling programs, etc.).

## Key Features

*The unit does not have to be a public housing unit.* Under the Section 32 homeownership program, housing authorities may sell existing public housing stock and/or acquire homes in the community and then sell these homes to income-eligible residents (including non-public housing residents earning 80 percent or less of AMI). Under Section 32, the PHA may also sell newly-constructed public housing units built as in accordance with 24 CFR Part 941.

*Housing authorities may provide financial assistance to public housing purchasers.* Housing authorities may provide, using the Capital Fund, permanent financing only to public housing families. Other income (e.g., loan repayments, proceeds from the sale of units, program income) may be used to provide financial assistance for non-public housing eligible purchasers.

*Non-purchasing public housing residents may be displaced.* Public housing residents residing in units to be sold under the Section 32 plan may be displaced (i.e., permanently, involuntarily moved). However, Section 32 regulations require that public housing residents have the right of first refusal if they are eligible to purchase the units. This right of first refusal does not extend to residents in non-public housing units. Public housing residents displaced by the sale of a unit must be offered a "comparable" housing unit that is in a location that is not less desirable than the location of the displaced resident's housing.

*The housing authority does not need to sell the units directly to eligible purchasers.* Housing authorities may sell units to a Purchase and Resale Entity (PRE) that serves as a conduit between the housing authority and eligible low-income purchasers. (A Resident Management Council (RMC) may qualify as a PRE.) The PRE must have the capacity to sell the units to low-income households within five years from the date of the PRE's acquisition of the units. If the PRE does not resell the units within five years, the units revert back to housing authority ownership.

*Recapture requirements must be in effect for all sales within the first five years of purchase.* The housing authority must recapture some or all of the appreciation and the financial assistance provided to the eligible household if the home is sold within the first five years. In order to determine what portion of the appreciation the PHA may claim, it may consider the total amount of assistance provided under the program to the family, the purchaser's paid-in equity, period of purchaser's residency, reason for resale, improvements made by the family, appreciation in value of the property, and other factors. After the initial five-year period, the PHA may not recapture the appreciation; it may only recapture the amount of the direct financial assistance to the purchaser (i.e., second mortgage).